

**PATENT**

**Attorney Docket Number: 46700-5004-10**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

INVENTOR: Marc ALAIA et al.

GROUP ART UNIT: Unassigned

SERIAL NO.: Unassigned

EXAMINER: Unassigned

FILING DATE: April 11, 2001

TITLE: METHOD AND SYSTEM FOR  
CONTROLLING AN ELECTRONIC  
AUCTION DURING THE TRANSITION  
TO A CLOSED STATE (As Amended)

ASSISTANT COMMISSIONER FOR PATENTS  
Washington, DC 20231

Sir:

**PRELIMINARY AMENDMENT IN CONTINUATION APPLICATION**

Prior to the examination of the above-identified continuation application on the merits,  
please amend the application as follows:

**IN THE TITLE**

Please amend the title of the invention to read: "METHOD AND SYSTEM FOR  
CONTROLLING AN ELECTRONIC AUCTION DURING THE TRANSITION TO A  
CLOSED STATE".

**IN THE CLAIMS**

Please cancel claims 1-88.

Please add claims 89-148 as follows:

89. A method of controlling bidding status in an online auction, comprising:
- setting a bid status to a first status for a lot with a closing time;
- setting said bid status to a second status at said closing time;
- determining whether to set another bid status for said lot; and
- setting said bid status in accordance with said determination.
90. The method of claim 89, wherein said first status is an open status and said second status is a pending status.
91. The method of claim 89, wherein said lot has an associated status parameter and pending interval.
92. The method of claim 89, wherein said determining comprises:
- receiving a message to set said bid status to close; and
- determining to set said bid status to close in accordance with said message.
93. The method of claim 89, wherein said determining comprises:
- receiving a message to set said bid status to open; and
- determining to set said status to open in accordance with said message.

94. A machine-readable medium whose contents cause a computer system to control the bidding status in an online auction by performing:
- setting a bid status to a first status for a lot with a closing time;
- setting said bid status to a second status at said closing time;
- determining whether to set another bid status for said lot; and
- setting said bid status in accordance with said determination.
95. The machine-readable medium of claim 94, wherein said first status is an open status and said second status is a pending status.
96. The machine-readable medium of claim 94, wherein said lot has an associated status parameter and pending interval.
97. The machine-readable medium of claim 94, wherein said determining comprises:
- receiving a message to set said bid status to close; and
- determining to set said bid status to open in accordance with said message.
98. The machine-readable medium of claim 94, wherein said determining comprises:
- receiving a message to set said bid status to open; and
- determining to set said bid status to open in accordance with said message.

99. A method to control bid status in an electronic auction between a sponsor of an auction and a plurality of bidders, comprising:

setting a bid status to a first status;

setting said bid status to a second status at closing time;

determining whether a return to open trigger has occurred; and

setting said bid status to a third status according to said determination;

wherein the sponsor and the bidders are coupled electronically over a communications network during the auction.

100. The method of claim 99, wherein said first status is an open status.

101. The method of claim 99, wherein said first status is an overtime status.

102. The method of claim 99, wherein said second status is a pending status.

103. The method of claim 102, wherein said pending status indicates that bids are not currently being accepted, but that the bid status may change such that bids will be again be accepted.

104. The method of claim 99, wherein said third status is a closed for bidding status.

105. The method of claim 99, wherein said third status is an available for bidding status.

106. The method of claim 99, wherein said third status is the same as said first status.
107. The method of claim 99, wherein said determining comprises:  
determining whether an automatic close flag is set to Yes; and  
determining to set said bid status to closed if said automatic close flag is set to Yes and an intervening condition does not occur prior to expiration of a pending interval.
108. The method of claim 99, wherein said determining comprises:  
determining whether an automatic close flag is set to Yes; and  
determining to set said bid status to closed if said automatic close flag is set to Yes and an intervening condition occurs prior to expiration of a pending interval.
109. The method of claim 99, wherein said determining comprises:  
determining whether an automatic close flag is set to Yes; and  
determining to set said bid status to closed if said automatic close flag is set to No and an intervening condition does not occur prior to expiration of a pending interval.
110. The method of claim 99, wherein said determining comprises:  
determining whether an automatic close flag is set to Yes; and  
determining to set said bid status to closed if said automatic close flag is set to No and an intervening condition occurs prior to expiration of a pending interval.

111. The method of claim 99, wherein said determining comprises:

determining whether an automatic close flag is set to Yes; and

determining to set said bid status to an available for bidding status if said automatic close flag is set to Yes and an intervening condition does not occur prior to expiration of a pending interval.

112. The method of claim 99, wherein said determining comprises:

determining whether an automatic close flag is set to Yes; and

determining to set said bid status to an available for bidding status if said automatic close flag is set to Yes and an intervening condition occurs prior to expiration of a pending interval.

113. The method of claim 99, wherein said determining comprises:

determining whether an automatic close flag is set to Yes; and

determining to set said bid status to an available for bidding status if said automatic close flag is set to No and an intervening condition does not occur prior to expiration of a pending interval.

114. The method of claim 99, wherein said determining comprises:

determining whether an automatic close flag is set to Yes; and

determining to set said bid status to an available for bidding status if said automatic close flag is set to No and an intervening condition occurs prior to expiration of a pending interval.

115. A machine-readable medium whose contents cause a computer system to control bid status in an electronic auction between a sponsor of the auction and a plurality of bidders, having instructions stored thereon which, when executed by a processor, cause the processor to:

set a bid status to a first status;

set said bid status to a second status at closing time;

determine whether a return to open trigger has occurred; and

set said bid status to a third status according to said determination;

wherein the sponsor and the bidders are coupled electronically over a communications network during the auction.

116. The machine-readable medium of claim 115, wherein said first status is an open status.

117. The machine-readable medium of claim 115, wherein said first status is an overtime status.

118. The machine-readable medium of claim 115, wherein said second status is a pending status.

119. The machine-readable medium of claim 118, wherein said pending status indicates that bids are not currently being accepted, but that the bid status may change such that bids will be again be accepted.

120. The machine-readable medium of claim 115, wherein said third status is a closed for bidding status.

121. The machine-readable medium of claim 115, wherein said third status is an available for bidding status.

122. The machine-readable medium of claim 115, wherein said third status is the same as said first status.

123. The machine-readable medium of claim 115, wherein said instructions to determine comprises instructions to:

determine whether an automatic close flag is set to Yes; and

determine to set said bid status to closed if said automatic close flag is set to Yes and an intervening condition does not occur prior to expiration of a pending interval.

124. The machine-readable medium of claim 115, wherein said instructions to determine comprises instructions to:

determine whether an automatic close flag is set to Yes; and

determine to set said bid status to closed if said automatic close flag is set to Yes and an intervening condition occurs prior to expiration of a pending interval.



125. The machine-readable medium of claim 115, wherein said instructions to determine comprises instructions to:

determine whether an automatic close flag is set to Yes; and

determine to set said bid status to closed if said automatic close flag is set to No and an intervening condition does not occur prior to expiration of a pending interval.

126. The machine-readable medium of claim 99, wherein said instructions to determine comprises instructions to:

determine whether an automatic close flag is set to Yes; and

determine to set said bid status to closed if said automatic close flag is set to No and an intervening condition occurs prior to expiration of a pending interval.

127. The machine-readable medium of claim 115, wherein said instructions to determine comprises instructions to:

determine whether an automatic close flag is set to Yes; and

determine to set said bid status to an available for bidding status if said automatic close flag is set to Yes and an intervening condition does not occur prior to expiration of a pending interval.

128. The machine-readable medium of claim 115, wherein said instructions to determine comprises instructions to:

determine whether an automatic close flag is set to Yes; and

determine to set said bid status to an available for bidding status if said automatic close flag is set to Yes and an intervening condition occurs prior to expiration of a pending interval.

129. The machine-readable medium of claim 115, wherein said instructions to determine comprises instructions to:

determine whether an automatic close flag is set to Yes; and

determine to set said bid status to an available for bidding status if said automatic close flag is set to No and an intervening condition does not occur prior to expiration of a pending interval.

130. The machine-readable medium of claim 115, wherein said instructions to determine comprises instructions to:

determine whether an automatic close flag is set to Yes; and

determine to set said bid status to an available for bidding status if said automatic close flag is set to No and an intervening condition occurs prior to expiration of a pending interval.

131. A method of controlling bidding status of a lot in an electronic auction, wherein said lot has a closing time, comprising:

setting a bidding status for said lot to a first status indicating that bids will be received from bidders on said lot;

receiving bids from bidders for said lot;

at said closing time, changing said bidding status for said lot to a second status indicating that bids will not be accepted on said lot but that said bidding status may subsequently be changed to a status indicating that bids will be received;

determining whether a return to open trigger event has occurred within a predefined time period following the changing of said bidding status from said first status to said second status;

if said return to open trigger event has not occurred, setting said bidding status to a third status indicating that bidding for said lot is closed; and

if said return to open trigger event has occurred, setting said bidding status to a third status indicating that bidding for said lot is open for bidding.

132. The method of claim 131, wherein said determining comprises receiving a communication from a bidder indicating a request for an opportunity for further bidding.

133. The method of claim 131, wherein if said return to open trigger event has occurred, said third status is the same as said first status.

134. A computer-readable medium for controlling bidding status of a lot in an electronic auction, wherein said lot has a closing time, the medium containing instructions which, when executed by a processor, cause the processor to:

set a bidding status for said lot to a first status indicating that bids will be received from bidders on said lot;

receive bids from bidders for said lot;

at said closing time, change said bidding status for said lot to a second status indicating that bids will not be accepted on said lot but that said bidding status may subsequently be changed to a status indicating that bids will be received;

determine whether a return to open trigger event has occurred within a predefined time period following the changing of said bidding status from said first status to said second status;

if said return to open trigger event has not occurred, set said bidding status to a third status indicating that bidding for said lot is closed; and

if said return to open trigger event has occurred, set said bidding status to a third status indicating that bidding for said lot is open for bidding.

135. The computer-readable medium of claim 134, wherein said instructions to determine comprise instructions to receive a communication from a bidder indicating a request for an opportunity for further bidding.

136. The computer-readable medium of claim 134, wherein if said return to open trigger event has occurred, said third status is the same as said first status.

137. A method of controlling bid status in a multi-lot electronic auction, wherein each lot has a closing time and a bid status, comprising:

setting a first closing time for a first lot, and a second closing time for a second lot, wherein said first closing time precedes said second closing time;

setting a first bid status for the first lot to a value indicating that bids will be accepted for said first lot;

setting a second bid status for the second lot to a value indicating that bids will be accepted for said second lot;

at said first closing time, setting said first bid status to a value indicating that bids will not be accepted for said first lot, but said first bid status may subsequently be changed to a value indicating that bids will be accepted for said first lot;

before said second closing time, determining whether a return to open trigger condition has occurred; and

if said condition has occurred, setting said first bid status to a status indicating that bids will be accepted for said first lot, and updating said first closing time so that it is subsequent to said second closing time.

138. A machine readable medium for controlling bid status in a multi-lot electronic auction, wherein each lot has a closing time and a bid status, comprising instructions for:

setting a first closing time for a first lot, and a second closing time for a second lot, wherein said first closing time precedes said second closing time;

setting a first bid status for the first lot to a value indicating that bids will be accepted for said first lot;

setting a second bid status for the second lot to a value indicating that bids will be accepted for said second lot;

at said first closing time, setting said first bid status to a value indicating that bids will not be accepted for said first lot, but said first bid status may subsequently be changed to a value indicating that bids will be accepted for said first lot;

before said second closing time, determining whether a return to open trigger condition has occurred; and

if said condition has occurred, setting said first bid status to a status indicating that bids will be accepted for said first lot, and updating said first closing time so that it is subsequent to said second closing time.

139. A method of displaying updated bid status in an electronic auction, comprising:

displaying information about a lot, said information including a bid status of the lot, wherein said bid status indicates that the lot has been closed for bidding, but that the lot may subsequently reopen bidding;

determining that a bid should be submitted for said lot;

informing an auction coordinator of said determination; and

displaying an updated bid status that indicates that the lot is available for bidding.

140. The method of claim 139, wherein said information includes a lot closing time, and said displaying an updated bid status also displays an updated lot closing time.

141. A computer-readable medium for displaying updated bid status in an electronic auction, the medium containing instructions which, when executed by a processor, cause the processor to:

display information about a lot, said information including a bid status of the lot, wherein said bid status indicates that the lot has been closed for bidding, but that the lot may subsequently reopen bidding;

inform an auction coordinator of a determination that a bid should be submitted for said lot; and

display an updated bid status that indicates that the lot is available for bidding.

142. The computer-readable medium of claim 141, wherein said information includes a lot closing time, and said instructions to display an updated bid status also contains instructions to display an updated lot closing time.

143. A bidding device operated by a bidder during a multi-lot auction, said bidding device comprising software that enables the bidder to submit bids to an online auction;

wherein said bidding device displays information about a first lot, said information including a first closing time for the first lot, and a first bid status for the first lot;

wherein if said bid status indicates that the lot is closed for bidding, but may subsequently reopen, and said bidder communicates with an auction coordinator of a lost bidding opportunity, said bidding device displays an updated first bid status indicating that the lot has reopened for bidding and an updated first closing time.

144. The bidding device of claim 143, wherein said updated first closing time is a later closing time.

145. The bidding device of claim 143, wherein at updated first closing time, said bidding device displays an updated bid status indicating that the lot is closed for bidding, but may subsequently reopen.

146. The bidding device of claim 145, wherein at the end of a pending interval, said bidding device displays an updated bid status indicating that the lot is closed for bidding and will not reopen.

147. A bidding device operated by a bidder during a multi-lot auction, said bidding device comprising software that enables the bidder to submit bids to an online auction;

wherein said bidding device displays information about a first lot, said information including a first closing time for the first lot, and a first bid status for the first lot;

wherein said first bid status indicates that the lot is closed for bidding, but may subsequently reopen; and

wherein at the end of a pending interval, said bidding device displays an updated bid status indicating that the lot is closed for bidding and will not reopen.

148. A method of controlling the transition to a closed state in an online auction, comprising:

(a) receiving bids until a closing time;

(b) setting a bid status to a Pending status, setting an automatic close flag to Yes and setting a pending interval to a maximum pending time;



(c) determining if return to open trigger has occurred and setting the automatic close flag to No in accordance with said determination;

(d) decrementing said pending interval;

(e) repeating steps (c) and (d) while the pending interval is greater than zero;

(f) if the automatic close flag is Yes, setting the bid status to Closed at the end of the pending interval; and

(g) if the automatic close flag is No, setting the bid status to Open at the end of the pending interval.

**REMARKS**

This Preliminary Amendment is filed in a Continuation application filed concurrently herewith under the Continuation Application procedure of 37 CFR § 1.53(b) of prior application, Application No. 09/311,555, which is a divisional of Application No. 09/252,790. By this Preliminary Amendment, Applicants have cancelled claims 1-88, and added claims 89-148. Accordingly, claims 89-148 are presently under consideration.

**Summary of the Final Office Action**

In the Final Office Action dated September 12, 2000 (Paper 11), claims 97-99, 109-113, 123 and 124 were rejected under 35 U.S.C. 102(b) as being anticipated by Business Wire article "SHAWMUT NATIONAL: Shawmut National will auction \$46 million in commercial real estate in December", dated November 3, 1992. (*Business Wire*).

By this Amendment, Applicants have added previously cancelled claims 97-99, 109-113, 123 and 124 as new claims 89-98. With respect to the rejection of claims 89-98, Applicants respectfully traverse the rejections for the following reasons.

**The rejection of claims 97-99, 109-113, 123 and 124**

Claims 89-98 represent patentable subject matter because the cited prior art fails to teach or suggest the present invention as claimed. The Final Office asserts that Claims 89 and 94 (previous claims 97 and 111), are taught by the auction of the *Business Wire* reference. The Office Action asserts that the *Business Wire* reference teaches that the “setting a bid status to a first status for a lot with a closing time” limitation because the “bid is set to OPEN at 11:00 a.m. Saturday, Dec. 12, closing time inherent because the auction would close at its first location at a predetermined time”. (Office Action, page 3, lines 3-5) The Office Action then asserts that the “setting a bid status to a second status at the closing time” limitation is taught by “at its closing time (at the first location) the bid status is PENDING because the auction is to be resumed the following day”. (Office Action, page 3, lines 6-7) The Office Action then asserts that the last limitation, “determining whether to set another bid status.. and setting the bid status” is taught by “the bid status is set to OPEN when the auction resumes at 11:00 a.m. Sunday, Dec. 13 based on the determination”. (Office Action, page 3, lines 9-11)

However, the *Business Wire* article is inapplicable because it describes an auction that has predetermined times at which it changes bidding status. As is evident from the article, the closing times are published in advance of the auction. The article does not teach re-opening the auction on Sunday, Dec. 13 only if some condition or event occurs at the closing time of Saturday’s auction. The auction in the *Business Wire* article reopens at 11:00 a.m. Sunday, Dec. 13 regardless of any condition or event that may occur.

Therefore, the auction in the *Business Wire* article does not meet the third limitation of claims 89 and 94 (previous claims 97 and 111). This limitation requires “determining whether to set another bid status for said lot.” The auction in the *Business Wire* article automatically changes on Sunday, Dec. 13 when it reopens. This auction does not determine whether to set this status; it simply reopens on Sunday, Dec. 13.

However, in the auction of the present invention, the times at which an auction's bidding status changes is not predetermined, but contingent upon observation of activity and/or conditions. The present invention does not change the bidding status to "Pending" at a predetermined time, then automatically change it back to "Open" at another predetermined time. As the present Specification teaches at Page 28, line 27 through Page 29, line 3, "When the scheduled closing time for a lot is reached, the bidding status is set to "Pending"... If the automatic close flag is set to "YES", then a clock begins to count down the pending interval. If no other intervention takes place and the pending interval expires, then the lot is closed automatically. If the automatic flag is set to "NO", then the lot will remain in the Pending status until manual intervention takes place."

As the Office Action notes at Page 3, lines 6-7, the bid status in the auction in the *Business Wire* article is "PENDING because the auction is to be resumed the following day." The bid status of "Pending" in the present invention means that the auction will close at the end of the Pending interval unless a event or condition occurs that indicates that the auction should be re-opened for bidding. The "Pending" bid status in the *Business Wire* article means that the auction will resume at a predetermined time. Applicants respectfully submit that the status of the auction after closing on Saturday, December 12 and before reopening on Sunday, December 13, is not "Pending", but rather "Paused".

The Final Office Action likewise asserts that claim limitations of claims 92-93 and 97-98 (previous claims 109-110 and 123-124) are "inherently met by the cited reference for the following reasons:

if all lots (properties) are sold out, the bid status would be CLOSE or CLOSED

if all lots (properties) are not sold out, the bid status would be OPEN."

However, the *Business Wire* reference states at page 1, paragraph 5, that "the oral auction will be held over two days and will feature about 142 properties. It will begin at 11:00 a.m., Saturday December 12 ... The auction will resume at 11:00 a.m., Sunday December 13." The

*Business Wire* reference also states at page 1, paragraph 7, that “in the oral bid portion, a majority of the properties will be auctioned absolute to the highest bidder.” Because the properties are going to the highest bidder, there is no chance that all properties will sell out before the second day of auctioning. In an auction, bids are received until the auction is closed, and then the best bid wins. It is not possible to determine at the close of the Saturday portion of the auction whether or not a “highest bid” has been received, as the auction is not completed, it is merely paused.

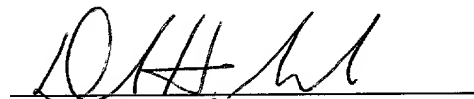
For at least the above reasons, it is believed that claims 89-98 represent patentable subject matter over the cited prior art, either alone or in combination. Removal of the rejections with respect to claims 89-98 is therefore respectfully requested.

**Conclusion**

Applicants respectfully request the Examiner’s reconsideration and reexamination of the application and timely allowance of the pending claims.

The Examiner is invited to contact the undersigned at 215-963-5055 to discuss any matter concerning this application.

Respectfully submitted,  
**MORGAN, LEWIS & BOCKIUS LLP**



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